

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WONDERLAND NURSERYGOODS CO., LTD.,)	Civil Action
)	
Plaintiff,)	No. 2:13-cv-00387
)	
v.)	Judge Mark R. Hornak
)	
THORLEY INDUSTRIES, LLC (d/b/a 4MOMS),)	<u>Electronically Filed</u>
)	
Defendant.)	

CLAIM CONSTRUCTION PRESENTATION SLIDES

Below please find the presentation slides used by Defendant Thorley's counsel at the Claim Construction Hearing conducted on December 4, 2013.

Dated: December 4, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December, 2013, I electronically filed the foregoing **CLAIM CONSTRUCTION PRESENTATION SLIDES** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all counsel of record.

THE WEBB LAW FIRM

s/ Bryan P. Clark
Bryan P. Clark

WONDERLAND v. THORLEY CLAIM CONSTRUCTION


Wonderland Nurserygoods Co., Ltd.
V.
Thorley Industries, LLC (d/b/a 4MOMS)

2:13-cv-00387

Defendant's Claim Construction

Before the Honorable Mark R. Hornak

U.S. Reissue Patent No. 43,919



US00RE43919E

(19) **United States**
 (12) **Reissued Patent**
 Chen

(10) **Patent Number:** US RE43,919 E
 (45) **Date of Reissued Patent:** Jan. 15, 2013

(54) **BABY CRIB**

(75) **Inventor:** Shun-Min Chen, Taipei (TW)

(73) **Assignee:** Wonderland Nurserygoods Co., Limited (TW)

(21) **Appl. No.:** 11/588,412

(22) **Filed:** Oct. 26, 2006

Related U.S. Patent Documents

Reissue of:
 (64) **Patent No.:** 6,859,957
Issued: Mar. 1, 2005
Appl. No.: 10/829,027
Filed: Apr. 28, 2004

Foreign Application Priority Data

(30) Jan. 2, 2004 (CN) 2004 2 00018045

(51) **Int. Cl.** A47D 13/06 (2006.01)
 (52) **U.S. Cl.** 5/93.1; 5/98.1
 (58) **Field of Classification Search** 5/98.1, 99.1, 655; 297/440.11
 See application file for complete search history.

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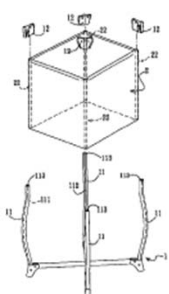
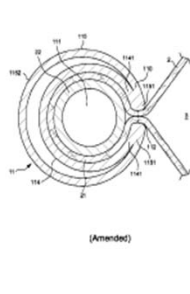
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 (Continued)

Primary Examiner—Robert G Santos
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(57) **ABSTRACT**

A baby crib includes a bed frame structure, a fabric member mounted on the bed frame structure to define a surrounding wall around the bed frame structure, and a plurality of positioning posts mounted on the fabric member. The bed frame structure includes a plurality of upright tubes, each of which has a tube wall defining a receiving hole and having a slit that extends along the length of the tube wall and that is in spatial communication with the receiving hole. The positioning posts are inserted respectively into the receiving holes in the upright tubes. The fabric member is clamped between each upright tube and a corresponding positioning post, and extends outward through the slit in each upright tube.

29 Claims, 5 Drawing Sheets

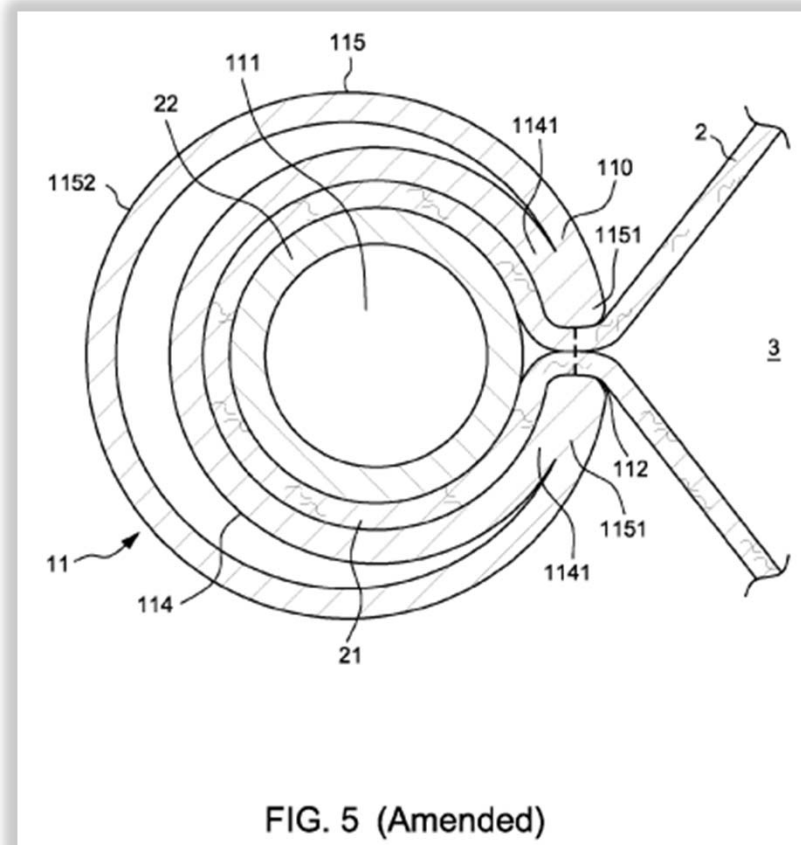
(Amended)

“Baby Crib”

Field of the Invention

“The invention relates to a baby crib, more particularly a baby crib that can be assembled with ease”

Col. 1, lines 15-17.



Claim Construction Principles

- The words of a claim are generally given their ordinary and customary meaning. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005).
- Claim construction is not an obligatory exercise in redundancy, and district courts are not required to construe every limitation. *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co., Ltd.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008).
- Courts do not rewrite claims. *K-2 Corp. v. Salomon S.A.*, 191 F.3d 1356, 1364 (Fed. Cir. 1999).

Courts Do Not Rewrite Claims

8. A ~~baby crib~~ bed with sides designed to support an infant in a sleeping or standing position comprising:
- ~~a bed frame structure including a plurality of upright tubes~~ a structure that gives shape and strength to a surface upon which a child can sleep or stand and which includes generally vertical hollow supports as structural components, wherein each of the ~~upright tubes~~ generally vertical hollow supports, respectively, includes ~~an outer wall~~ a wall away from the center of the tube and a receiving hole ~~extending along a~~ extending along the full length of the ~~upright tube~~ generally vertical hollow support, the ~~outer wall~~ away from the center of the tube having an ~~outwardly facing surface and defining an outer contour shape of the upright tube~~ a surface (or a portion of a surface) of a wall (or a portion of a wall) of the tube that faces away from the crib;
- an enclosure member surrounding an enclosed space adapted for receiving a baby therein; and
- a plurality of positioning posts provided on the enclosure member at locations corresponding to the ~~upright tubes~~ generally vertical hollow supports, wherein the positioning posts are ~~configured to lodge into~~ shaped to be held in the receiving holes of the ~~upright tubes~~ generally vertical hollow supports for supporting the enclosure member between the ~~upright tubes~~ generally vertical hollow supports, whereby the enclosure member ~~extends from one upright tube generally in directions of other of the upright tubes substantially out of contact with the outwardly facing surfaces of the upright tubes, such that the outwardly facing surface of each of the upright tubes is exposed on an outside of the enclosure member~~ reaches from one tube to another, and does not bear against any substantial portion of the surfaces that face away from the enclosure, so that those surfaces are exposed on the outer periphery of the enclosure.

“Baby Crib”

Thorley Construction

Plain and ordinary meaning

Wonderland Construction

A bed with sides designed to support an infant in a sleeping or standing position

- Common words used in normal manner
- No need to construe; can apply standard meaning
- Words added by Wonderland would cause unnecessary confusion

“Bed frame structure including a plurality of upright tubes”

Thorley Construction

Plain and ordinary meaning

Wonderland Construction

A structure that gives shape and strength to a surface upon which a child can sleep or stand and which includes generally vertical hollow supports as structural components

- Common words used in normal manner
- No need to construe; can apply standard meaning
- Words added by Wonderland would cause unnecessary confusion

“Upright Tubes”

Tube:

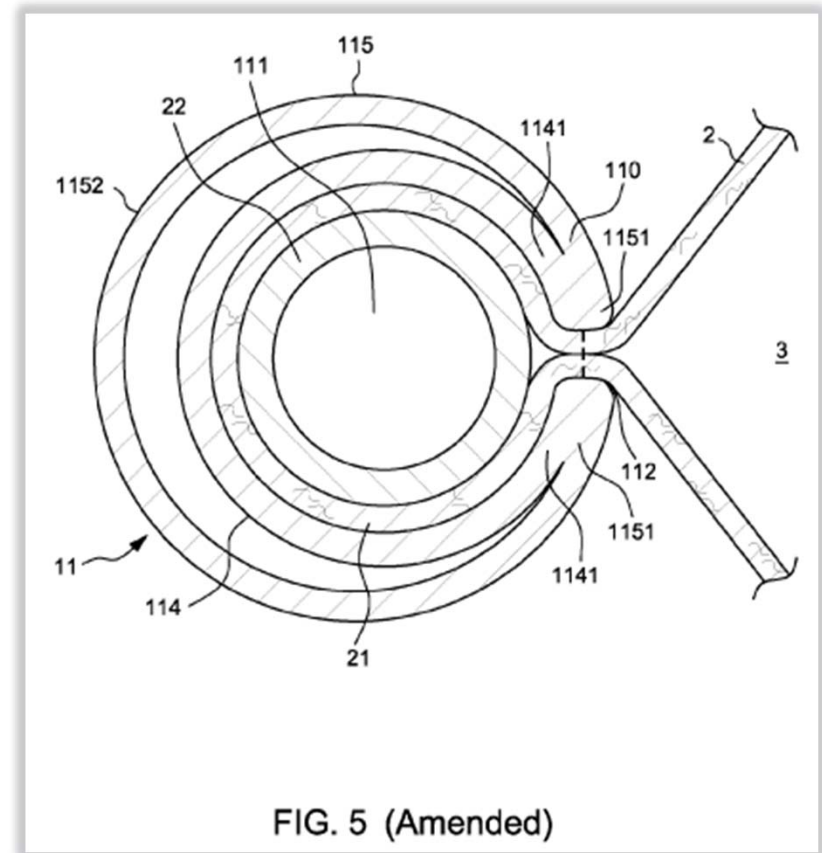
- A hollow cylinder, especially one that conveys a fluid or functions as a passage.

www.thefreedictionary.com

- Any of various usually cylindrical structures: as

(a) a hollow elongated cylinder

www.merriam-Webster.com



“Outer Wall”

Thorley Construction

Plain and ordinary meaning

Wonderland Construction

A wall away from the center of the tube

** any wall can be an outer wall

- Common words used in normal manner
- No need to construe; can apply standard meaning

“Outer Wall”

Wonderland’s constructions

- “Outer wall” can mean “any wall”
 - Reads word “outer” out of claim
- “Wall away from the center of a tube”

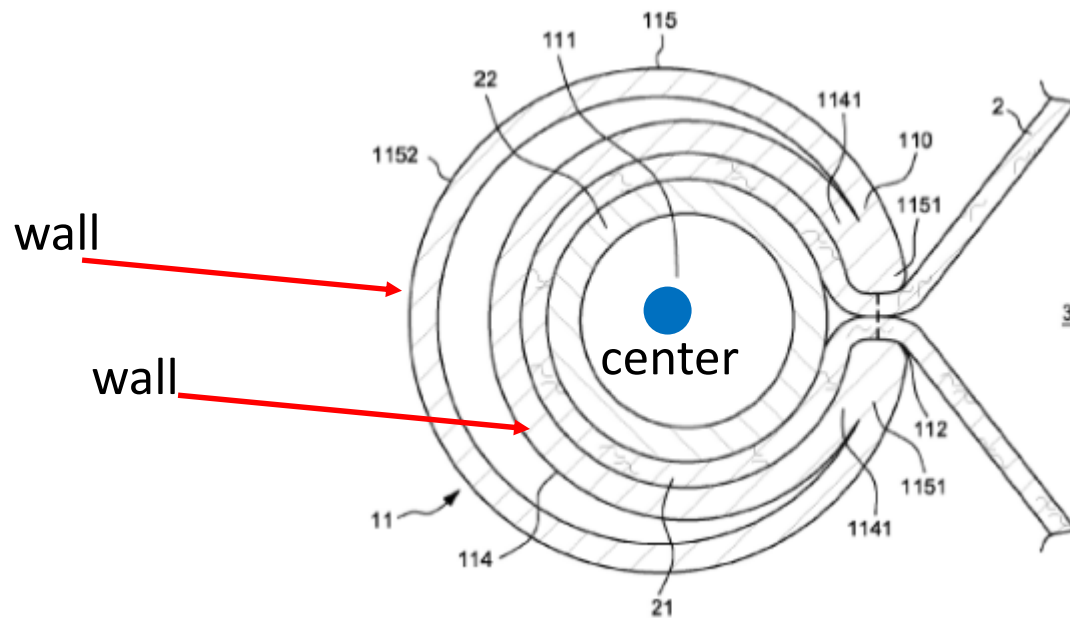


Figure 5

“the outer wall having an outwardly facing surface and defining an outer contour shape of the upright tube”

Thorley Construction

Outwardly facing surface – outer or exterior surface

Otherwise, plain and ordinary meaning

Wonderland Construction

A surface (or a portion of a surface) of a wall (or a portion of a wall) of the tube that faces away from the crib

- No need to construe remaining language; can apply standard meaning
- Court should not rewrite the entire phrase

“Outwardly Facing Surface”

Phillips case:

- The words of a claim "are generally given their ordinary and customary meaning"
- The specification "is the single best guide to the meaning of a disputed term."

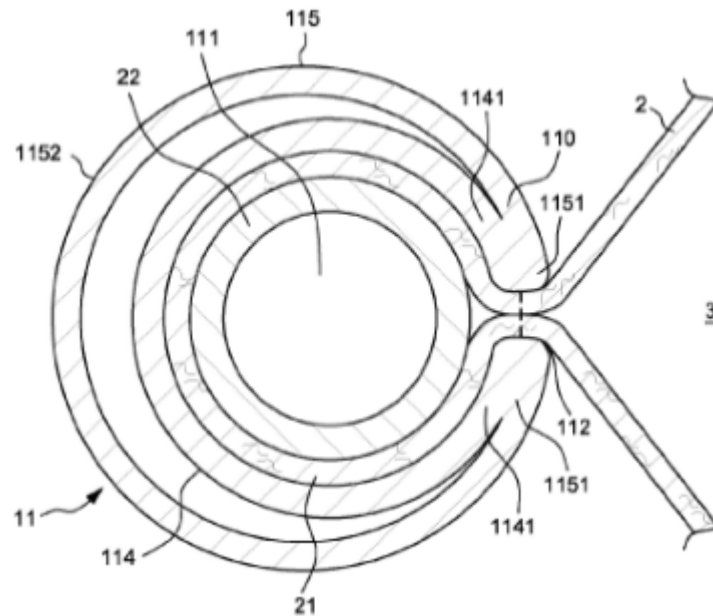


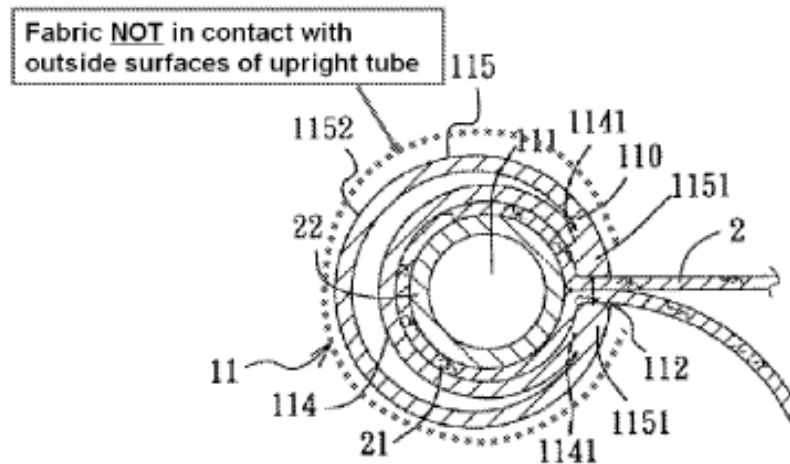
Figure 5

“Outwardly Facing Surface”

Phillips: The prosecution history informs the meaning of the claim language.

a) Enclosure Member Out of Contact with Outwardly Facing Surfaces of Tube

Claims 1, 8, 15 and 20, as presented herein, recites that the enclosure/fabric member is out of contact with the outwardly facing surface of the upright tube. This is show graphically below with reference to Figure 5:

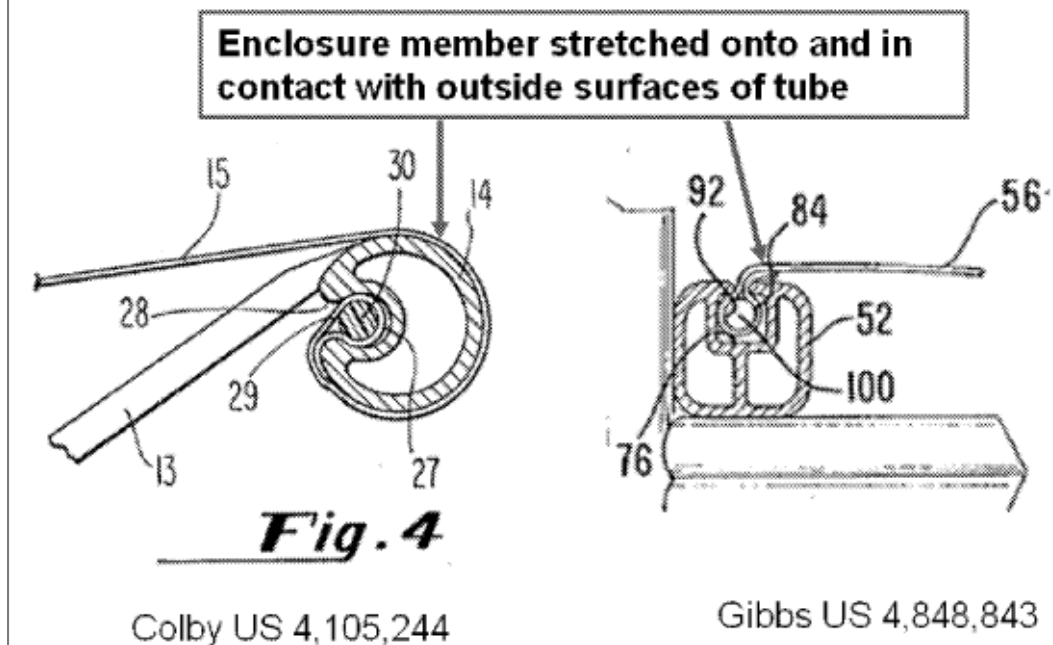


F I G. 5

“Outwardly Facing Surface”

Phillips: The prosecution history informs the meaning of the claim language.

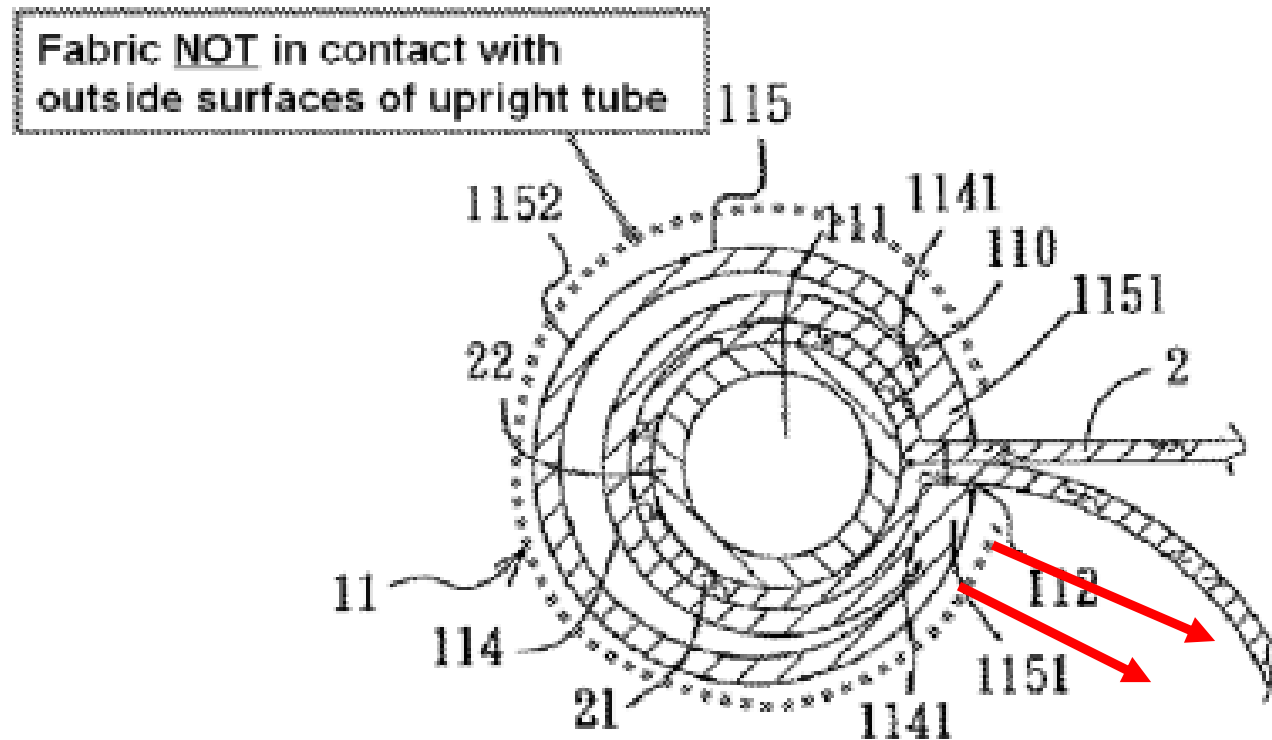
Both Gibbs and Colby rely on the outwardly facing surfaces of the tubes for support. In addition, the enclosure member (i.e., fabric) in each case is stretched over and bears against the outwardly facing surface of the tubes. This condition leads to easy tearing and excessive wear of the enclosure member. This condition is identified in each of the cited Gibbs and Colby references graphically below:



July 19, 2010 Amendment, pg. 13 of 15

“Outwardly Facing Surface”

Wonderland’s Construction: “a surface ... that faces away from the crib”



July 19, 2010 Amendment, pg. 12 of 15 (annotated)

“Outer Contour Shape”

- Thorley’s position – no construction needed
- Wonderland’s position – unknown

8. A baby crib comprising:
a bed frame structure including a plurality of upright tubes, wherein each of the upright tubes, respectively, includes an outer wall and a receiving hole extending along a length of the upright tube, the outer wall having an outwardly facing surface and defining an outer contour shape of the upright tube;

“Configured to Lodge Into”

Thorley Construction

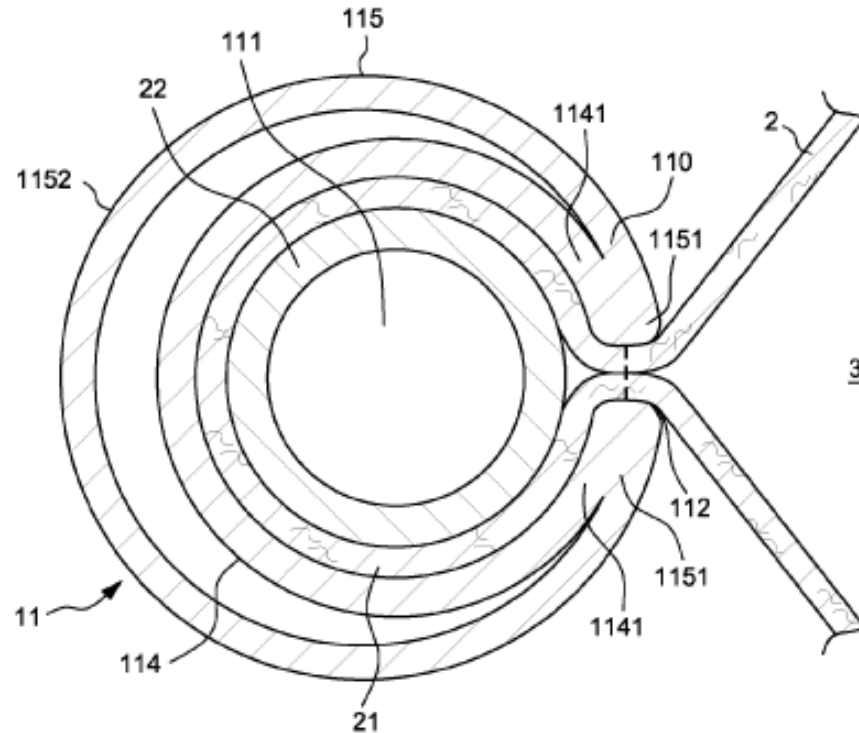
Shaped to fixedly fit
into

Wonderland Construction

Shaped to be held in

- Dispute is primarily over the meaning of “lodge”

“Configured to lodge into”



Specification

“Since the fabric member **2** is clamped between each of the upright tubes **11** and a corresponding one of the positioning posts **22**, the fabric member **2** can be positioned fixedly on the bed frame structure **1** without the need for screws.”

“The Whereby Clause”

Thorley Construction

Indefinite due to
“exposed on the outer
periphery of the
enclosure”

*Otherwise, plain and
ordinary meaning*

Wonderland Construction

Whereby the enclosure
member reaches from one
tube to another, and does
not bear against any
substantial portion of the
surfaces that face away
from the enclosure, so that
those surfaces are exposed
on the outer periphery of
the enclosure

“The Whereby Clause”

Original Claim Language

whereby the enclosure member extends from one upright tube generally in directions of other of the upright tubes substantially out of contact with the outwardly facing surfaces of the upright tubes, such that the outwardly facing surface of each of the upright tubes is exposed on an outside of the enclosure member

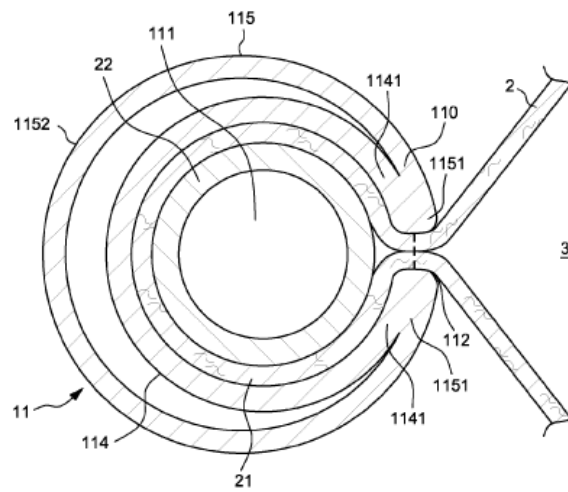
Wonderland’s Proposed Modification

whereby the enclosure member ~~extends~~ reaches from one ~~upright~~ tube ~~generally in directions of other of the upright tubes substantially out of contact with the outwardly facing surfaces of the upright tubes~~ to another, and does not bear against any substantial portion of the surfaces that face way from the enclosure, such so that ~~the outwardly facing surface of each of the upright tubes is~~ those surfaces are exposed on ~~an outside~~ the outer periphery of the enclosure member

“The Whereby Clause”

(a) Whereby the enclosure member extends from one upright tube generally in directions of other of the upright tubes

- Thorley’s Position: No construction necessary
- Wonderland’s Construction: whereby the enclosure member reaches from one tube to another
 - Omits “directions of other of the upright tubes.”



“The Whereby Clause”

Phillips: The prosecution history informs the meaning of the claim language.

D. The fabric extends in two directions from the upright tubes

The claims call for an arrangement whereby the enclosure member extends in two directions (plural) from the upright tubes (plural). The feature is articulated differently in the various claims. For example, claim 1 says: “extends in directions between the upright tubes;” claim 8 says: “member extends from one upright tube generally in directions of at least two other of the upright tubes;” claim 15 says: “extending between the upright tubes;” and claim 20 says: “extends generally between two of the support tubes.” In the Gibbs reference, the center support is provided with two spaced-apart and separate fabric elements (as noted above, not an enclosure member at all), each of which extends from the center support in only one direction; from each of the outer tubes, the fabric also extends in only one direction, as shown below in Figure 5 of Gibbs:

Feb. 28, 2011 Pre-Appeal Brief, pg. 4 of 5

“The Whereby Clause”

(b) Substantially out of contact with

- Wonderland’s Construction: does not bear against any substantial portion
- Thorley’s Position: No construction necessary

“The Whereby Clause”

(c) Such that the outwardly facing surface of each of the upright tubes is exposed on an *outside of the enclosure member*

- Wonderland’s Construction: so that those surfaces are exposed on the outer periphery of the ***enclosure***
 - Improper to simply delete the word “member”
- Different terms have different meanings:
 - Claim 1: “such that the outwardly facing surface of each of the upright tubes is exposed on an outside of the ***enclosed space***.”
- “Enclosure member” \neq “enclosure” or “enclosed space”